

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 99-1546

Vernon Smith,

Appellant,

v.

Willa Dean Spath, Circuit Clerk, Lee
County, Bill Lewellen, Public
Defender, Lee County,

Appellees.

*
*
*
*
*
*
*
*
*

Appeal from the United States
District Court for the
Eastern District of Arkansas

[UNPUBLISHED]

Submitted: March 31, 1999

Filed: May 17, 1999

Before McMILLIAN, LOKEN, and MURPHY, Circuit Judges.

PER CURIAM.

Inmate Vernon Smith appeals from the final judgment entered in the District Court¹ for the Eastern District of Arkansas, dismissing with prejudice his 42 U.S.C.

¹The Honorable George Howard, Jr., United States District Judge for the Eastern District of Arkansas, adopting the report and recommendation of the Honorable John F. Forster, Jr., United States Magistrate Judge for the Eastern District of Arkansas.

§ 1983 action prior to service. Smith claimed his Fourteenth Amendment due process rights were violated when defendants deliberately delayed the correction of a clerical error in his sentencing order. We conclude dismissal was proper because Smith's complaint allegations show he suffered no resulting injury other than alleged emotional distress. See 42 U.S.C. § 1997e(e) (prisoners may not bring federal civil actions for mental or emotional injury without prior showing of physical injury); Knight v. Lombardi, 952 F.2d 177, 179 (8th Cir. 1991) (inmate's procedural due process claim dismissed where inmate failed to allege or present evidence of injury flowing from alleged violation).

Accordingly, we affirm. See 8th Cir. R. 47A(a). We deny Smith's request for appointment of counsel.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.